

PUBLIC ACTS, 1999

CHAPTER NO. 456

SENATE BILL NO. 1769

By Fowler

Substituted for: House Bill No. 1847

By McKee, Todd

AN ACT To amend Tennessee Code Annotated, Title 40, relative to the Tennessee Board of Paroles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-28-105, is amended by deleting subsection (d) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 40-28-105, is further amended by creating a new subsection (d) and adding the following new subdivisions:

(1) A majority of members of the board shall constitute a quorum for official administrative business.

(2) The chair of the board may designate individual parole board members and appoint hearing officers who shall be authorized to conduct hearings, take testimony and make proposed findings of fact and recommendations to the board regarding a grant, denial, revocation or rescission of parole. Such findings and recommendations shall be reduced to writing and reviewed by board members who shall adopt, modify or reject the recommendations.

(3) The grant of parole shall require the concurrence of three (3) board members except as set out in TCA, Section 40-28-105(d)(4).

(4) The grant of parole involving certain offenses shall require the concurrence of four (4) board members; those offenses are: (A-AA)

- (A) First degree murder
- (B) Aggravated arson
- (C) Aggravated child abuse and neglect (child six (6) years of age or less)
- (D) Aggravated rape
- (E) Aggravated vehicular homicide
- (F) Attempted first degree murder
- (G) Conspiracy to commit first degree murder
- (H) Especially aggravated kidnapping
- (I) Especially aggravated robbery
- (J) Rape of a child
- (K) Second degree murder

PUBLIC ACTS, 1999
Chapter No. 456

- (L) Adulteration of foods, liquids, or pharmaceuticals (serious bodily injury or death)
- (M) Aggravated child abuse or neglect (child six (6) years of age or above)
- (N) Aggravated kidnapping
- (O) Aggravated sexual battery
- (P) Aggravated sexual exploitation of a minor (obscene)
- (Q) Especially aggravated burglary
- (R) Especially aggravated sexual exploitation of a minor
- (S) Rape
- (T) Solicitation to commit first degree murder
- (U) Vehicular homicide by intoxication
- (V) Aggravated assault
- (W) Spousal rape
- (X) Vehicular homicide
- (Y) Voluntary manslaughter
- (Z) Vehicular assault
- (AA) Any other offense for which punishment is life imprisonment.

(5) The provisions of subsection TCA, Section 40-28-105(d)(4), shall also apply to persons convicted of offenses repealed November 1, 1989, which would have constituted a conviction for one of the above enumerated offenses had it been committed after November 1, 1989.

(6) The denial of parole shall require the concurrence of three (3) board members, except as set out in TCA, Section 40-28-105(d)(4), where denial shall require the concurrence of four (4) board members.

(7) The rescission of a parole grant shall require the concurrence of two (2) board members.

(8) The revocation at a parole grant shall require the concurrence of two (2) board members.

(9) No board action shall be invalid because it is based upon the recommendation of a hearing officer.

(10) The administrative continuance of a case will not require board approval.

(11) Inmates whose parole has been revoked or rescinded, or who have been denied parole, or whose grant of parole has been rescinded, may request an appellate review by the board. The board shall establish a reasonable time limit for filing of such a request. If the time limit is not met, the request for an appellate review will be denied. An appellate request will be screened by a board member or designee and a review will be conducted if there is new evidence or information that was not available at the time of the hearing, or if there are allegations of misconduct by the hearing official that are substantiated by the record or if there were significant procedural errors by a hearing official.

PUBLIC ACTS, 1999
Chapter No. 456

The appellate review will be conducted from the record of the first hearing and the appearance of the inmate will not be necessary. If a board member decides that an appearance hearing is necessary, it will be scheduled before a board member or hearing officer who did not conduct the hearing that is the subject of the appeal. A summary of the appellate hearing will be prepared and the board will vote after a review of the summary and the record of the first hearing. The decision after an appellate review will require the concurrence of three (3) board members. The decision rendered after an appellate review will be final.

(e) The members of the board, and the board's employees when appropriate, shall be reimbursed for their reasonable and necessary travel expenses in accordance with the state comprehensive travel regulations.


(f) The Governor or the Attorney General and Reporter may seek the removal of a member of the board for knowing or willful misconduct in office or for knowing or willful neglect or failure to perform any duty enjoined upon a member of the board by any of the laws of this state or for the conviction of any crime which constitutes a felony under the laws of the state. This removal shall be accomplished through the removal procedure provided in Title 8, Chapter 47.

SECTION 3. Any costs associated with implementing the provisions of this act shall be paid for with funds that have been appropriated to the Board of Probation and Parole.

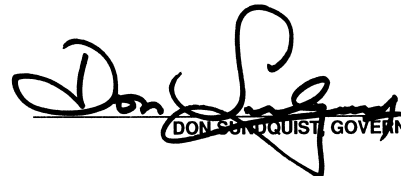
SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 27, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 17th day of June 1999


DON CONQUIST, GOVERNOR